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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/877,773	06/08/2001	Huiqi Yin	10832/006	3941
7590	03/29/2004		EXAMINER	
BRINKS HOFER GILSON & LIONE Suite 2425 One Indiana Square Indianapolis, IN 46204-2033			STOCK JR, GORDON J	
			ART UNIT	PAPER NUMBER
			2877	
DATE MAILED: 03/29/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/877,773	YIN, HUIQI
Examiner	Art Unit	
Gordon J Stock	2877	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 02 January 2004.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1,4-16 and 18-33 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1,4-16 and 18-33 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 02 January 2004 is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_

5)  Notice of Informal Patent Application (PTO-152)

6)  Other: \_\_\_\_\_

## DETAILED ACTION

### *Drawings*

1. Figures 1 and 3 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.
2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “light source of known wavelength and deviation” of claims 1 and 33; “the filter to reflect the light emitted from the light source and block light at the wavelength of the light source from entry into the spectral analyzer” of claims 4, 21, 26, and 33; “radiation optics optically coupling the light source to the housing optical window” of claim 6; “band pass filter situated in the housing in a spaced relation from the light source” of claims 10, 24, 26; “a light source of known wavelength and deviation situated within the probe” of claim 16; “radiation optics coupled to the light source” of claims 1, 16, 26, and 33; “sampling optics” to direct spectrum toward a spectral analyzer of claims 1, 16, 26, and 33; “a trigger coupled to the light source” of claim 20 and 28; and “a light source of known wavelength and deviation coupled to the probe” of claim 26 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

*Specification*

4. The abstract of the disclosure is objected to because it is unclear as to what the moving lens is incorporated into of line 5 nor is it clear what the fiber bundle is incorporated into of lines 7-8. Correction is required. See MPEP § 608.01(b).

Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:

- (1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;
- (3) if a chemical compound, its identity and use;
- (4) if a mixture, its ingredients;
- (5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

5. The specification is objected to for the following: on page 5 lines 23 "from a samples" should read --from samples-- Correction is required.

6. The specification is objected to for the following: on page 7 lines 14-15, the pending application information should be updated to express the issued patent 6,316,686. Correction is required.

7. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: “a light source of known wavelength and deviation” of claims 1, 16, 26, and 33 lacks antecedent basis; movement between .1 and 100cm/sec of claim 11 lacks antecedent basis. Corrections are required.

#### *Claim Objections*

8. **Claim 11** is objected to for the following: “the holder” of line 3 lacks antecedent basis. Correction is required. Examiner suggests “the lens holder.”

9. **Claim 16** is objected to for the following: on line 14 “perpendicular the probe axis” should read --perpendicular to the probe axis--. Correction is required.

10. **Claim 20** is objected to for the following: on line 5 “the housing” lacks antecedent basis. Examiner suggests “the probe housing.”

#### *Claim Rejections - 35 USC § 112*

11. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

12. **Claims 1, 4-16, and 18-33** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As for **claims 1, 16, 26, 33**, the term “it” in the phrase “direct it toward a spectral analyzer” is indefinite, for it is unclear as to what “it” refers, the spectrum or the sample.

As for **claims 4, 21, 26, and 33**, terms “acting” in relation to the filter is indefinite, for it is unclear as to how the acts on or in the radiation and sampling optics in order to reflect or block light.

Also with **claim 26**, “the filter” of line 19 is indefinite, for it is unclear as to which filter it is referring, the bandpass filter or “the filter acting.”

**Claims 5-16, 18-20, 22-25, and 27-32** are rejected for depending upon a rejected base claim.

***Response to Arguments***

13. Applicant’s arguments, see Remarks, filed January 2, 2004, with respect to the rejection(s) of the claims under 35 U.S.C. 103(a) have been fully considered and in view of the amending of the claims have been found persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made: see above.

***Allowable Subject Matter***

14. **Claims 1, 4-16, and 18-33** would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, and the objections set forth in this Office action.

As to **claim 1**, the prior art of record, taken alone or in combination, fails to disclose or render obvious in an apparatus for identifying the composition of a sample “the objective lens being eccentrically mounted within the lens holder,” in combination with the rest of the limitations of **claims 1, 4-15**.

As to **claim 16**, the prior art of record, taken alone or in combination, fails to disclose or render obvious in an apparatus for identifying the composition of a sample “the objective lens

being eccentrically mounted within the lens holder," in combination with the rest of the limitations of **claims 16, 18-25.**

As to **claim 26**, the prior art of record, taken alone or in combination, fails to disclose or render obvious in an apparatus for identifying the composition of a sample "a baffling tube fixed within the housing contiguous to the filter to form a segregated region within the housing for absorbing radiation reflected by the bandpass filter" and an apparatus for moving the objective lens holder in a plane generally parallel to the sample surface" in combination with the rest of the limitations of **claims 26-32.**

As to **claim 33**, the prior art of record, taken alone or in combination, fails to disclose or render obvious in an apparatus for identifying the composition of a sample "a trigger coupled to the light source" and "the trigger coupled to the motor," in combination with the rest of the limitations of **claim 33.**

#### *Fax/Telephone Numbers*

If the applicant wishes to send a fax dealing with either a proposed amendment or a discussion with a phone interview, then the fax should:

- 1) Contain either a statement "DRAFT" or "PROPOSED AMENDMENT" on the fax cover sheet; and
- 2) Should be unsigned by the attorney or agent.

This will ensure that it will not be entered into the case and will be forwarded to the examiner as quickly as possible.

*Papers related to the application may be submitted to Group 2800 by Fax transmission. Papers should be faxed to Group 2800 via the PTO Fax machine located in Crystal Plaza 4. The form of such papers must conform to the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CP4 Fax Machine number is: (703) 872-9306*

Art Unit: 2877

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gordon J. Stock whose telephone number is (571) 272-2431.

The examiner can normally be reached on Monday-Friday, 8:00 a.m. - 4:30 p.m.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

PS

gs

March 17, 2004

  
Zandra V. Smith  
Primary Examiner  
Art Unit 2877